EEUP/PAYS Financing: Assessing its Risks For the Low-Income Utility Customer

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EEUP workshop

National Consumer Law Center (NCLC)

- Since 1969, the nonprofit National Consumer Law Center® (NCLC) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S.

- NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness.

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Topics to be discussed

- The state of energy unaffordability/insecurity
- Existing Illinois weatherization programs
- Energy efficiency financing, generally
- PAYS model
- Illinois' PAYS (EEUP) statute
  - The devil is in the details
  - Who bears the risk?
- Consumer protections to be addressed
- Other questions to be asked
- Conclusion
- Sample bill calculation

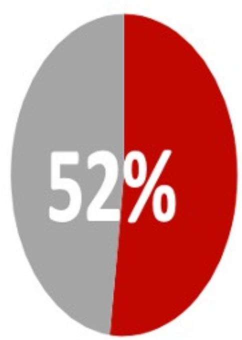
Energy Insecurity, Pre-COVID-19

- U.S. Energy Information Administration:

25 Million

25 million households reported forgoing food and medicine to pay energy bills in at least some months and 7 million had to forgo food and medicine almost every month.

Nearly 1 in 3 U.S. households faced challenges in paying energy bills or keeping their homes heated or cooled in 2015, as did 50% of households with less than $20,000 in annual income.



52% of African American households reported experiencing household energy insecurity, as did 44% of Latinx Households.

ComEd – June 2022 monthly C&C report	Total Residential Customers	Low-Income (LIHEAP/PIPP) Customers
Residential customer numbers	3.7 million	197,289
Disconnection Notices	90,726	3,813
Disconnections	29,451	1,178
Reconnections	23,432	1,157
DPAs	127,982	19,373
Failed DPAs	43,317	3,993
Completed DPAs	7,930	2,516
Late Charges assessed	663,056	14,053
Residential Arrearages Past 30 days	$72,793,386	$13,645,913

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Ameren -- June 2022 C&C monthly C&C report	Total Residential Customers	Low-Income (LIHEAP/PIPP) Customers
Residential customer numbers	1.06 million	81,404
Disconnection Notices	22,163	2,119
Disconnections	3,395	329
Reconnections	2,666	311
DPAs	60,128	9,014
Failed DPAs	23,814	2,746
Completed DPAs	1,083	121
Late charges assessed	104,535	167
Residential Arrearages Past 30 Days	$46,193,661	$9,583,787

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Existing Illinois weatherization programs

- Illinois Home Weatherization Assistance Program (IHWAP)
- Federally funded and ratepayer-funded through Supplemental LIHEAP surcharge;
- $48.8 million 2022 budget; 2,335 units treated, plus 217 w/ work orders in progress as of close of 2022 fiscal year.
- An additional $156 million allocated to IL through the Infrastructure Investment and Jobs Act. (CAAs will be increasing capacity to serve more clients.)

Existing Illinois weatherization programs

ANNUAL budgets for utility-sponsored low-income whole-home (SF and MF) weatherization programs total $118 million ($471 million over 2022-2025 period):

- ComEd: $100 million annual income-qualified (IQ) budget
  - $69 million of which is dedicated to whole-home weatherization
- Ameren: $36.9 million annual IQ budget
  - $25.5 of which is dedicated to whole home weatherization
- Nicor: $13 million annual IQ budget
  - $11.9 million dedicated to whole home weatherization
- Peoples Gas/N.Shore Gas: $12.5 million annual IQ budget
  - $11.3 million dedicated to whole home weatherization

Energy Efficiency financing

- "On-bill" financing: Often initiated via statute; allows or requires utilities to offer financing of and repayment for energy efficiency measures on the utility bill over a designated period of time;
- PAYS (Pay As You Save) financing: a form of on-bill financing. Promoted across the U.S. by Clean Energy Works© and Liberty Homes.
- PAYS monthly surcharge (loan) obligation stays with the meter rather than the customer;
- Both models rely on disconnection of utility service as means of securing repayment of the debt.

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PAYS model details

- Approved utility tariff requires a utility to invest directly in energy efficiency upgrades regardless of a customer's income, credit score, or renter status;
- Touted as a way to deliver efficiency measures to lower-income customers who lack access to credit;
- All costs of running the PAYS program are recoverable in rates;
- Repayment of loan is guaranteed through customer disconnection of utility service if payments not made.

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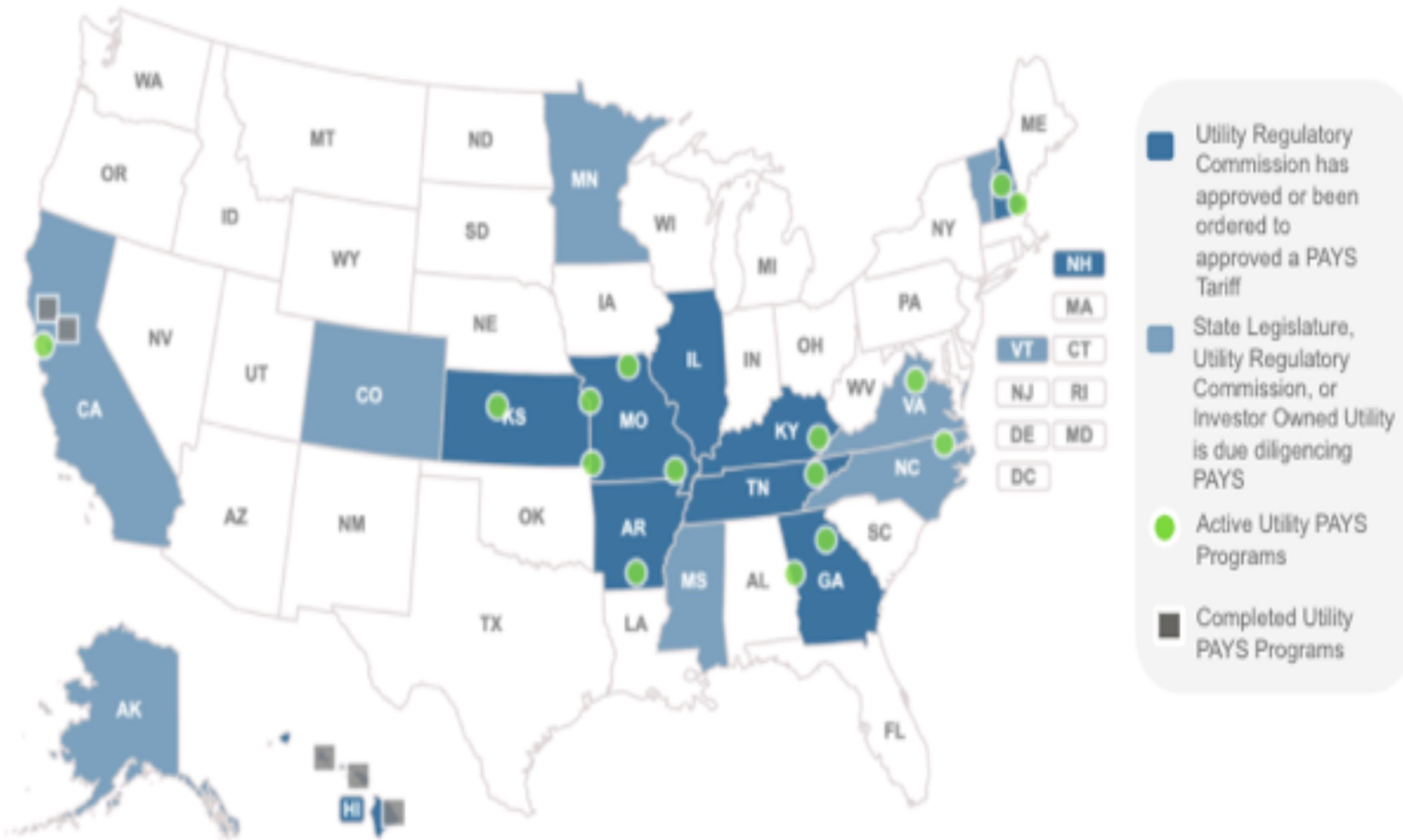
PAYS model details

- PAYS "loan" is tied to the utility meter;
- Obligation to repay the loan transfers to the new tenant or homeowner;
- Monthly loan payment amount is set at 80% of forecasted energy savings over a designated period of time;
- Energy savings specifically <u>not guaranteed</u> by PAYS providers.

States with PAYS financing available or soon to be available



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ACCOUNT NUMBER	NAME	RATE	CYCLE	TELEPHONE NUMBER	SERVICE ADDRESS
44081001	[redacted]	1	1	[redacted]	[redacted]

SERVICE FROM	SERVICE TO	NO. DAYS	BILL TYPE	METER READING LAST BILL	METER READING THIS BILL	MULTIPLIER	KWH USAGE	CHARGES
08/16/21	09/16/21	31	0	8398	10616	1	2218	228.67

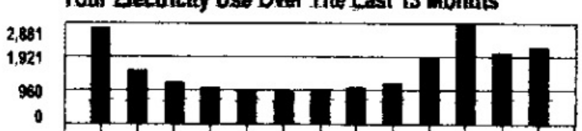
AVAILABILITY CHARGE			23.00
COST OF ENERGY ADJ	0.011830	2218	26.24
COVID 19 ARRANGEMENT			58.47
COST OF DEBT ADJ	-0.005200		-11.53
TO/RTO ADJ	0.0022500		4.99
HELP PAYS CONTRACT			49.09
COUNTY TAX			6.78
STATE TAX			17.64
TOTAL CURRENT BILL DUE	10/22/21		403.35
PREVIOUS AMOUNT DUE			372.82
THANK YOU FOR YOUR PAYMENT	09/23/21		-372.82
TOTAL AMOUNT DUE			403.35

Current Due (If paid After Due Date, add $ 0.00)

COMPARISONS	DAYS SERVICE	TOTAL KWH	AVG. KWH/DAY	COST PER DAY
CURRENT BILLING PERIOD	31	2218	72	8.96
PREVIOUS BILLING PERIOD	32	2046	64	7.84
SAME PERIOD LAST YEAR	31	2759	89	9.66

TOTAL DUE NOW	$ 403.35
DUE DATE 10/22/21	BILL IS DELINQUENT AFTER DUE DATE
AFTER DUE DATE PAY	$ 403.35

Your Electricity Use Over The Last 13 Months



Rate Code-Description
1. Residential
2. Small Commercial
3. Large Commercial
4. Security Lighting
5. Street Lighting
6. 1st 500 KWH tax exempt

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PAYS programs in other places

- To date, PAYS has been promoted in various states, and is mainly being offered by electric cooperatives;
- Utility regulators in Kansas, Kentucky, Arkansas, Missouri, North Carolina, New Hampshire, California and Tennessee have already approved opt-in tariffs for efficiency upgrades.
- Some of the branded names for those programs are: How$mart (KY), Upgrade To Save (NC), HELP PAYS® (AR), Water Upgrade $ave (CA), U-Save Advantage (TN) and Lagrange SOUL (GA).

Illinois' PAYS statute

- Section 16-111.10(a) references the need to address access to energy efficiency measures to customers who have traditionally been denied credit, which will include low income customers;
- "Eligible projects" include "renewable energy generation systems, including solar projects, energy efficiency upgrades, energy storage systems, demand response equipment, or any combination thereof;"
- PAYS financing does not require upfront payments; "however, customers may pay down the costs for projects with a payment to the installing contractor in order to qualify projects that would otherwise require upfront payments."
- Relies on the PAYS model of collecting the loan through disconnection.

EEUP targeted toward lower income customers

- Section 16-111.10(c)(4):“The program shall ensure…accessibility by lower-income residents and environmental justice community residents”

- 16-111.10(d):
  - (1) Year 1: Electric utility with greater than 100,000 retail customers is required to obtain low-cost capital of at least $20,000,000 annually for investments in energy projects.
  - (2) Year 2: Each utility required to obtain low-cost capital for investments in energy projects of at least $40,000,000
  - (3) Year 3: Each utility required to obtain low-cost capital for investments in as many systems as customers demand, subject to available capital provided by the utility, State, or other lenders.
- 16-111.10(n): “If the demand by utility customers exceeds the Program capital supply in a given year, utilities shall ensure that 50% of participants are:
  - (1) customers in neighborhoods where a majority of households make 150% or less of area median income; or
  - (2) residents of environmental justice communities.”

Illinois' PAYS statute

- "The Commission may allow utilities to raise capital independently, work with third-party lenders to secure the capital for participants, or a combination thereof."
- **Questions: Will this capital earn the utility's authorized rate of return? What does this mean in terms of ensuring this is a low-cost energy efficiency financing mechanism?** (Is this really the cheapest way to finance weatherization?)

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Illinois' PAYS statute cost-effectiveness provisions

- Sec. 16-111.10(j)(1):
- "The calculation of cost-effectiveness must be conducted by an objective process approved by the Commission and based on rates in effect at the time of installation."
- What happens to the value of the PAYS loan once utility rates change?
- Sec. 16-111.10(j)(2):
- "A project shall be considered cost-effective only if it is estimated to produce significant immediate net savings, not counting copayments voluntarily made by customers. <u>The Commission may establish guidelines by which this required savings is estimated</u>."
- **Will these calculations follow the existing IL TRM?**

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Illinois' PAYS statute
(How do we ensure cost-effectiveness?)

- 16-111.10(e)(2)(B): "Customer protection guidelines should be designed consistent with Pay As You Save Essential Elements and Minimum Program Requirements."
- CLEAN ENERGY WORKS PAYS materials specifically say that energy savings are NOT guaranteed.
- 16-111.10(e)(2)D): "Guarantee that conservative estimates of financial savings will immediately and significantly exceed Program costs for Program participants."
- Sec. 16-111.10(j)(2): "A project shall be considered cost-effective only if it is estimated to produce significant immediate net savings, not counting copayments voluntarily made by customers. The Commission may establish guidelines by which this required savings is estimated."

- **How is this achieved given lack of guarantee of energy savings? Promise to provide savings over the lifetime of the financed measure doesn't provide needed <u>monthly</u> bill savings to LI customer.**
- How "immediate?" **People with little to no discretionary income MUST see monthly savings from measure(s) or PAYS surcharge only contributes to unaffordability.**

Illinois’ PAYS statute: New utility obligations

- EEUP statute: “(I) Any energy project that is defective or damaged due to no fault of the participant must be either replaced or repaired with parts that meet industry standards at the cost of the utility or vendor, as specified by the Commission, and charges shall be suspended until repairs or replacement is completed. The Commission may establish, increase, or replace the requirements imposed in this subsection. The Commission may determine that this responsibility is best handled by participating project vendors in the form of insurance, contractual guarantees, or other mechanisms, and issue rules detailing this requirement. Customers shall not be charged monthly payments for upgrades that are no longer functioning.”
- **What is the utility’s responsibility for ensuring value and cost/effectiveness of PAYS measures and how much will that obligation cost ratepayers? (How will this work?)**

How closely will EEUP follow the PAYS model?

- "The Program should be **modeled after the Pay As You Save system**, by which Program participants finance energy projects using the savings that the energy project creates with a tariffed on-bill program. Eligible projects **shall not create personal debt** for the customer, result in a lien in the event of nonpayment, or require customers to pay monthly charges for any upgrade that **fails** and is not repaired within 21 days."
- Question: **How do we interpret "modeled after the PAYS system?"**

- Failure to pay has consequences (disconnection from essential utility service due to debt obligation, credit reporting implications);

- **Who decides what "fails" means?** (Failure to deliver anticipated monthly energy savings as forecasted? Clear malfunction? How do we distinguish between the two, particularly when financed measures don't involve "on/off" mechanisms?)

- **What are the utility (ratepayer-funded) costs of utilities abiding by this provision?**

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Who bears the risk? (Not the utility or the bank.)

- Sec. 16-111.10(q):

"An electric utility shall recover all of the prudently incurred costs of offering a program approved by the Commission under this Section. For investor-owned utilities, shareholder incentives will be proportional to meeting Commission approved thresholds for the number of customers served and the amount of its investments in those locations."

Consumer protection issues to be addressed:

- Ultimately, this is the operational responsibility of the utilities, per statute. (The Commission doesn't regulate contractors.)
- So, what are the operational costs of the program? (We won't know until we establish the rules.)
- How do we prevent the kind of fraud, abuses and rip-offs observed in the alternative energy supply industry? (Clear risk for consumers. Potential new litigation risk for utilities? Will customers have to pay for those legal defense costs?)
- **Bottom line: Ratepayers and the participants in EEUP bear all the risk, collectively and individually. What consumer protections will be put in place through this workshop/rulemaking process?**

Consumer protection issues to be addressed:

- How do we ensure that utility customers, eligible for zero-cost weatherization (WAP), are not approached to finance measures on their utility bill that they could have received at *zero cost* through WAP or utility-sponsored energy efficiency weatherization programs? (How do we ensure delivery of statutory directive informing customers of other programs?)
- What if the promised energy savings don't appear? (The PAYS model doesn't guarantee energy savings.)
- How do changes in usage and energy costs impact the forecasted energy savings?
- When the obligation is attached to the meter (as opposed to the customer) what are the implications in terms of cost-effectiveness for the next customer, particularly renters? (Energy savings calculations for financed measures should be based on customer's individual household usage patterns.)

Consumer protection issues to be addressed:

Unlike traditional OBF, IL utilities will have a financial stake in promoting PAYS:

- "An electric utility shall recover all of the prudently incurred costs of offering a program approved by the Commission under this Section. For investor-owned utilities, **shareholder incentives will be proportional to meeting Commission approved thresholds for the number of customers served and the amount of its investments in those locations**."

- **Questions:**
  - **What shareholder incentives are being referenced here?**
  - **How will this opportunity for "shareholder incentives" (a.k.a. increased profits) compete with the utility's obligation to deliver zero-cost weatherization through its ratepayer-funded energy efficiency programs, which already include a shareholder incentive under Sec. 8-103B of the Act?**
  - **How will this incentive structure impact weatherization uptake?**
  - **Are customers being asked to pay double-incentives for the promotion of EE measures? Where is the value in that?**

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Consumer protection issues to be addressed:

- “Utilities shall endeavor to inform customers about the availability of the Program, their potential eligibility for participation in the Program, and whether they are likely to save money on the basis of an estimate conducted using variables consistent with the Program that the utility has at its disposal. The Commission may establish guidelines by which utilities must abide by this directive and alternatives if the Commission deems utilities' efforts as inadequate.”

- **Question: How heavily will this be marketed by the utilities? How will this marketing co-exist with marketing for utility-sponsored energy efficiency programs?**

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Consumer protection issues to be addressed:

- Section 16-111.10(c)(5):“the utility must ensure that customers who are interested in participating are notified that if they are income qualified, they may also be eligible for the Percentage of Income Payment Plan program and free energy improvements through other programs and provide contact information.”
- **Question: What will this information look like if information about other programs is distributed by implementers with a financial interest in promoting PAYS? Who will create this information content? How will it be relayed to the customer?**

NCLC minimum requirements for tariff on-bill (PAYS) programs

- Energy financing programs should not displace low income affordability protections (No disconnections for non-payment of EE financing charges.)
- Don’t displace existing zero-cost WAP and utility-sponsored weatherization opportunities;
- Create a loan loss reserve to guard against customer losses when savings don’t appear as promised;

NCLC minimum requirements for tariff on-bill (PAYS) programs

- Partial customer bill payments should first be applied to the payment of the utility service (not the PAYS loan);
- Energy savings of financed measures should be guaranteed rather than be aspirational, with low-income households held harmless in case of under-performing improvements;
- Reserve fund can be drawn upon to reimburse customers for under-performing measures (but how would that work – especially when one high monthly bill could throw off a monthly budget?);

NCLC minimum requirements for tariff on-bill (PAYS) programs

- PAYS should be administered by an independent entity; in no case should marketing be conducted by contractors, vendors or others with financial interest in maximizing sales.

- Program administrators should be certified to conduct audits/assessments at standards that are at a minimum equivalent to those that apply to WAP;

- Include post-installation quality control w/ verifiable savings monitoring throughout obligation repayment period.

NCLC minimum requirements for tariff on-bill (PAYS) programs

- Ensuring continuity of savings for tenants particularly challenging, highlighting the need for prior listed protections, including loan loss reserve. Financed measures for tenants should be limited to those that are less sensitive to occupancy changes (such as refrigerators, other measures?);

NCLC minimum requirements for tariff on-bill (PAYS) programs

- PAYS creditors (utilities) must be liable for the actions of the original seller.
- Disclosure documents should clearly identify and provide contact info for program administrator, list measure performance assumptions, explain energy bill savings expectations and provide the terms of the financial obligation, with a right to, and information on, dispute procedures..

Other key questions re: PAYS programs

- Who handles complaints? Utility? PAYS program administrator?
- If a customer makes a partial monthly bill payment, how is that payment applied and how is the disconnection process impacted?
- Are PAYS payments included as a cost of utility service when calculating LIHEAP, PIPP and Arrearage Management Program amounts?
- If yes, then this reduces available funding for LIHEAP and PIPP.
- If no, then customers would still face disconnection (or an impediment to reconnection) if utility disconnects for failure to pay PAYS tariffed amount.

Other key questions re: PAYS programs

- How would a loan/loss reserve work when payment-troubled customers experience <u>monthly</u> unaffordability? (Reimbursement months down the road is too little, too late.)
- How does a customer know whether the financed measure is functioning as forecasted (and as 80% of energy savings payment is structured)?
- Will a customer receive a follow-up audit to ensure continued (cost-effective) energy savings?

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Again, who bears the risk?

- Banks are assured of minimal (zero) risk due to utility disconnection ability for nonpayment;
- Utility recovers their bad debt and any costs associated with delivering the PAYS program in rates, regardless of whether customers are able to pay.
- We have little information from PAYS proponents about cost of the program at large IOU scale, anticipated risk of disconnection, and typical bill for specific measures.

- **Conclusion: Residential customers (including PAYS payee) bear all of the risk of the program. Both utilities and consumers currently lack needed information before we commit statutory concepts to rules and can feel confident that this program will truly benefit customers.**

Measure Repayment Calculator - Hypothetical Measures/Upgrades

	Heat Pump Installation	Insulation/ Air Sealing	Refrigerator Replacement
Measure Cost/Loan Amount	$18,000	$7,000	$1,000
Annual Interest Rate	0.0%	0.0%	0.0%
Repayment Term (Years)	10	10	10
Monthly Payment	($150.00)	($58.33)	($8.33)
Annual Payment	($1,800.00)	($700.00)	($100.00)
Total Monthly Home Energy Expenditure	$250	$250	$250
% Savings Required to Achieve Expenditure Neutrality	60.0%	23.3%	3.3%

QUESTIONS?

Thank you!

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